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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,874	04/09/2004	Werner Berens	P25062	9274
7055	7590	07/12/2006	EXAMINER	
GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			DODSON, SHELLEY A	
			ART UNIT	PAPER NUMBER
			1616	

DATE MAILED: 07/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/820,874

Applicant(s)

BERENS ET AL.

Examiner

SHELLEY A. DODSON

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on PRELIMINARY AMENDMENT FILED 4/9/2004.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 3-42 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 3-42 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/2005; 10/2004.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

SHELLEY A. DODSON  
PRIMARY EXAMINER

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#### DETAILED ACTION

1.

Claims 3-42 are pending in this application filed April 09, 2004.

2.

Applicant's claims are directed toward use of one of several substances selected from the group of pyrimidines and purines in cosmetic preparations for tanning the skin.

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Claim Rejections - 35 USC § 102

3.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4.

Claims 3-42 are rejected under 35 U.S.C. 102(b) as being anticipated by Griesbach et al. USP No. 6,706,696 B1.

Griesbach et al disclose cosmetic and/or pharmaceutical preparations containing deoxyribonucleic. Griesbach further discloses that cosmetic preparations containing nucleic acids, specifically purines and pyrimidines and their derivatives stimulate the production of melanin in human skin and produce pigment. Note column 3, lines 1-45 for the specific purines and pyrimidines and same amounts and proportions claimed by applicant. Additionally in column 3, lines 50-65, Griesbach further discloses that antioxidants, sun protection agents and tanning agents are also contained. Column 8 through to column 9, Griesbach further discloses both UV-A and UV-B protectants as well as nano-pigments are also present. Zinc oxide and titanium oxide are specifically identified as the specific inorganic pigment. In column 3, lines 50-55, Griesbach discloses that said compositions may be in the form of sticks, gels creams oil and water emulsions. Griesbach lastly discloses that the referenced compositions are employed for tanning preparations and to stimulate the production of melanin in the skin. This meets the limitation of a method of treating the condition of hypopigmentation since this is the condition of the absence of pigment in the skin. Griesbach discloses each and every aspect of the invention as claimed by the applicant in the instant invention.

Information Disclosure Statement

5.

The information disclosure statements (IDS) submitted were noted and the submissions are in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner has considered the information disclosure statements and made them of record.

Telephone Inquiries

6.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley A. Dodson whose telephone number is (571) 272-0612 and fax number (571) 273-0612. The examiner can normally be reached on Monday-Thursday from 7:30 a.m. to 5:00 p.m. If attempts to reach the

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examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter can be reached at (571) 272-0646.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. This new location should be used in all instances when faxing any correspondence numbers to Group 1600. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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Shelley A. Dodson  
Primary Examiner  
Art Unit 1616

July 8, 2006